



The State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**



**Thomas S. Burack, Commissioner**

January 22, 2008

The Honorable Martha Fuller Clark, Chairman  
Energy, Environment and Economic Development Committee  
New Hampshire Senate  
Legislative Office Building, Room 102  
Concord, New Hampshire 03301

**Subject: SB 455 Relative to the removal of designations from certain real property by the Department of Environmental Services**

Dear Chairman Clark and members of the committee:

Thank you for the opportunity to provide testimony about Senate Bill 455. This bill would require the Department of Environmental Services to adopt rules to establish procedures to remove the designation of "landfill" in the Department's records from property on which a solid waste facility had operated but is now closed.

Starting in the mid-1980s, the Department has overseen the permanent closure of one hundred and twelve unlined municipal landfills. All but six of these were capped in place and are now maintained under a post-closure monitoring program that typically includes groundwater and landfill gas monitoring and surface cap maintenance. The other six landfills were excavated and removed in their entirety. In several cases the land was developed for other uses.

During the same time frame, thirty-one private unlined landfills were also closed, with ten of those being fully removed. The proportion of private landfills fully removed is higher because they tended to be smaller and there was an economic incentive to develop the land for a productive use. In all cases, both municipal and private landfills were closed in accordance with a Department approved closure plan.

There are currently three unlined municipal landfills that will definitely be undergoing closure sometime in the future. The remaining landfills have been exempted from formal closure by RSA 149-M:9.XIII, which exempts unlined landfills in towns with populations of 5,000 or fewer from the closure program under certain circumstances. The Department believes the program to close unlined landfills has been a success.

The Department does not support Senate Bill 455 because it believes that the bill is unnecessary. An example will illustrate the point. The Moultonborough landfill was closed by removal in 2001, according to plans that were approved by the Department. This landfill was by far the largest that has been closed in this manner. Since the landfill no longer exists, the Department retired its solid waste permit and updated the

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Department's database to indicate that the property is the site of a former landfill. The property is under no use restriction related to future site development. The Department's public records accurately reflect the environmental history of the Moultonborough site.

The Department is concerned with the possible impact the bill could have on future transfers of property where at one time a landfill existed but was subsequently excavated and removed. In performing due diligence investigations by prospective purchasers of property, any party would want to know if the site at some point was a landfill. The language of this bill would remove the designation "landfill" from the Department's records, thereby making it difficult to alert a future buyer of the past use of the property.

Since there are few landfills left to close, none of which are expected to be excavated and removed, and since the Department has already overseen successful completion of a large and complex removal project, the Department does not believe that SB 455 is necessary. If you have any questions regarding this letter of testimony, please do not hesitate to call me or Michael Wimsatt, Waste Management Division Director, at 271-2905.

Sincerely,

  
Thomas S. Burack, Commissioner  
New Hampshire Department of Environmental Services

cc: Senator Joseph Kenney  
Michael J Wimsatt, P.G., Director WMD  
Michael E. Guilfooy, P.E., Administrator SWMB